

Frequently Asked Questions about Homeowner Associations in Virginia

What is the difference between a homeowner association, property owners' association, condominium association, and a civic association?

"Homeowner association" is a general term for common interest communities, or CICs. CICs include property owners' associations, which are defined by the Property Owners' Association Act, and condominium associations, which are governed by their legal documents in accordance with the Condominium Act. If your community has a governing body, collects mandatory assessments and maintains common areas (such as lakes or a tot lot) or buildings (such as a clubhouse), it falls under one of the following statutes:

- Property Owners' Association Act of 1989 (a disclosure act)
- Condominium Act

Civic associations and neighborhood associations, which do not fall under either statute, can be grassroots, legal or corporate entities. Their governing structure and obligations do not meet statute applicability.

I have friends who live in an association across town, and they don't have all the rules that our association has. Why are various associations governed so differently?

In the Commonwealth of Virginia, associations are authorized by local government bodies, but not governed by them. Every CIC association is a separate, private legal contract between an owner and the association. By buying a home, a lot or a unit in the community, you become a party in a legally binding contract – membership in a unique association of owners, governed by its own rules, restrictions, and obligations.

I didn't sign anything agreeing to join any association! I just bought the house. Why is the association claiming I have to pay dues and follow their rules?

When you signed the purchase contract for a home, lot or unit within a CIC association, you became a member of the association even if you did not sign your association's governing documents. You may have legal responsibilities including paying association membership fees and special assessments. If you do not understand the "fine print," seek legal counsel.

Does the association have any legal responsibility toward homeowners?

Read your governing documents. Your association may be obligated to maintain the exterior of your property, or to provide security, trash collection or snow removal. The association may be obligated to support common property, amenities and staff with homeowners' fees. Since 2002, the association also must conduct, at least every five years, a study to determine the necessity and amount of reserves required to repair, replace and restore its capital components (clubhouse, pool, tennis courts, etc.). The study must be reviewed annually and updated by the Board.

I am a member of a CIC association. What are my rights under Virginia law?

Under the statutes listed above, an association member has the right to review all association records, including the current budget and reserve study. A member has the right to be notified at least 14 days in advance of any annual or regularly scheduled membership meeting and seven days in advance of any other meeting. Members have the right to attend Board meetings and to review meeting Minutes, and votes must be openly conducted. Executive sessions may be convened only upon a motion stating the purpose within an open meeting. The Board must provide a designated time during meetings for members to comment on any matter relating to the association, as well as a reasonable, effective and free method for owners to communicate among themselves and with the Board regarding any matter. Members not in good standing can lose their right to vote, attend meetings and receive documents.

Our association is professionally managed. Does that mean that the manager assumes all the responsibilities of the owners?

No, hiring a professional manager or management company does not absolve owners from their legal responsibilities as members of the association.

Do I have the right to make audio or video tapes of my association's meetings?

Yes, the statutes allow recording of open meetings. Your Board may require that the taping be announced to those present, and that the taping equipment be placed in the center of the room for the best sound recording.

Can my association remove privileges, such as use of our community pool?

Yes, the above statutes define your rights as well as the rights of CIC associations, including the right to levy special assessments and to suspend a member's right to use association facilities or services for nonpayment of fees beyond 60 days.

My association's various documents contradict each other on some points – help!

Statute always takes precedence. Follow this hierarchy for your association documents, always referring to the requirements of the highest-ranking document: Deed of Dedication and Plat; Easement and Land Records; Declaration of Covenants, Conditions and Restrictions; Articles of Incorporation; Bylaws.

Our Treasurer wants to invest our reserve funds in the stock market and earn a profit, rather than let them sit in a low-interest savings account. Is this a good idea?

No. A CIC association is a not-for-profit organization, and its funds are to be preserved. Directors should act as fiduciaries, preserving and managing funds by considering investments in the best interest of the association. Prudent investments include savings accounts, money market and certificates of deposit (CDs) to the extent fully insured by the federal government, and certain bonds and notes of the Commonwealth and the U.S. government, such as Treasury notes, bills, and bonds. The association Board should adopt, publish and follow an investment policy and should err on the side of full disclosure.

My association is not run by owners, but by the developer. When do the owners get to govern ourselves?

Your association's governing documents should define the process of transition to homeowner control. Statute requires the developer (called the "declarant") to then provide all documents including all association books and records, financial records, the association's current insurance policies, unexpired warranties of all contractors, suppliers and manufacturers relating to common areas to be maintained by the association, and current contracts.

What do I do when I sell my home or condo unit – who tells the buyer about the association, dues, etc.?

Virginia law requires the seller of a home (or lot) to obtain a disclosure packet from the association and provide it to the purchaser. The packet should contain Covenants, Conditions & Restrictions (CC & Rs), Articles of Incorporation, Bylaws, and other documents including the association's annual budget and reserve fund summary. A seller of a condominium unit must provide a resale certificate packet to the purchaser that contains similar information. The information packets are specific to the lot or unit and will identify any outstanding violations, assessments, or liens. Once received, the purchaser has three days to cancel a contract under the POA Act (and up to 10 days if the contract is for a new condominium unit).

Is there anyone I can go to with questions? Where do I go for recourse in a serious disagreement with my association?

The Community Association Liaison was established by the General Assembly in 2001 to serve as your point of contact on issues relating to the governance, administration and operation of common interest communities. The Liaison assists those who live in, operate or are interested in common interest communities in Virginia and can give non-binding interpretations of statutes governing such communities. The Liaison's website features links to educational resources and to statutes. While the Liaison can discuss potential violations of statute, the Liaison has no authority over any community association and is not authorized to enforce provisions of CIC statutes. However, the Liaison can provide contact information for dispute resolution and mediation services.

I'd like to see our association run differently. What is the best way to improve it?

You can change your CIC association politically, by changing the members of the Board, or judicially, through the courts – an extremely expensive process. The best way to improve your association is to get involved! Read your governing documents thoroughly, and attend meetings of the association. Volunteer to serve on a Committee or the Board of Directors, and encourage other residents to do the same. Listen to and respect all points of view, build relationships and consensus with others in your community, and make fair decisions. It takes time, but the best communities always are run by people who care about their neighbors and are willing to work for the greater good.

Learn about your common interest community!

**This FAQ sheet, as well as a brochure,
"Before You Buy Your Home: Your Guide to Homeowner Associations
in the Commonwealth of Virginia,"
and links to Virginia statutes and additional resources
are available free to the public on the Liaison page from the
News & Consumer Information section at www.dpor.virginia.gov.
For hard copies or additional information, call 1-804-367-0776.**

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